Citation: *T. C. v. Canada Employment Insurance Commission*, 2015 SSTAD 429

Appeal No. AD-14-192

BETWEEN:

## T. C.

Applicant

and

## Canada Employment Insurance Commission

Respondent

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# SOCIAL SECURITY TRIBUNAL DECISION
## Appeal Division – Leave to Appeal

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|---|---|
| SOCIAL SECURITY TRIBUNAL MEMBER : | Mark BORER |
| DATE OF DECISION: | March 27, 2015 |
| DECISION: | Leave to appeal granted |

**DECISION**

[1]     On February 7, 2014, a member of the General Division determined that the appeal of the Applicant from the previous determination of the Commission should be dismissed.  In due course, the Applicant filed a request for leave to appeal to the Appeal Division.

[2]     Subsection 58(1) of the *Department of Employment and Social Development Act* states that the only grounds of appeal are that:

> (a)   The General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
>
> (b)   The General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
>
> (c)   The General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[3]     The *Act* also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[4]     Among other things, the Applicant claims that he never received notice of the General Division hearing because he was out of the country when the notice was sent. He also notes that he was still out of the country when the hearing itself was held, and claims that he had been previously informed by Tribunal staff that the hearing would not be held while he was out of town.  He therefore asks for a new hearing so that he can present his case fully.

[5]     If shown to be true the Applicant's arguments could result in a successful appeal. I therefore find that this application has a reasonable chance of success and that this application for leave to appeal should be granted.

*Mark Borer*
Member, Appeal Division